IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO.34613 of 1997

Between:
V.Madhavan, S/o. Narayana Achari,
Door No.4-1858, Durganagar Colony,
Chittoor, Chittoor District. **..... PETITIONER**

AND

1.Secretary, Regional Transport Authority,
Chittoor, Chittoor District.
2.Asst.Secretary, Regional Transport
Authority, Chittoor, Chittoor District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of certiorari, calling for the records relating to the impugned Demand Notice of the 2nd respondent in R.No.18223/A3/97 dated 29-11-1997 levying and demanding a sum of Rs.1,13,322/- towards difference of tax for the quarter ending with 30-6-1997 in respect of the Petitioner's contract carriage Bus - TAJ 3195, and quash the same.

For the Petitioner: MR.V.NARASIMHA REDDY, Advocate.

For the Respondent No.: GP FOR TRANSPORT

The Court made the following :

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ORDER: (PER SRI BN, J)

Heard learned counsel for the parties.

By this writ petition a demand notice for payment of quarterly tax of Rs.1,13,322/- has been challenged on the ground that the vehicle was used without a due permit. In the counter-affidavit filed by the respondents it has been stated that the petitioner obtained a temporary permit No.13/96 valid up to 02-08-2001. On 12-05-1997, the registered owner of the vehicle obtained a special temporary permit under Section 88(8) of the Motor Vehicles Act which was valid for three days from 13-05-1997 to 15-05-1997 and it was extended by one day. So it was valid up to 16-05-1997. On 17-05-1997 he obtained another temporary permit, which had to be remained valid up to 19-05-1997. On 17-05-1997 at 4.00 a.m. the vehicle met with an accident and at that point of time the vehicle was being run without a due permit. After the accident, the petitioner obtained a temporary permit for three days from 17-05-1997 to 19.5.1997. The earlier permit covered the period up to midnight of 16/17-05-1997 and beyond midnight of 16/17-05-1997 the vehicle was not covered with a permit. Therefore, in terms of Section 3 of the Motor Vehicles Act r/w Rule 12, the petitioner was liable to pay the tax for the quarter.

The learned Counsel for the petitioner, on the other hand, submits that the accident occurred before midnight of 16-05-1997. There is no evidence on record to substantiate such a contention. The objections filed by the petitioner to the show cause notice also revealed that the driver of the vehicle had communicated the information of accident to the police in the morning of 17-05-1997 and not at midnight or immediately after midnight. Since this Court

was not able to come to a conclusion on its own because of insufficiency of material placed before us by the petitioner as to at what time the accident took place, this Court will have to rely on the counter filed by the respondents that the accident occurred at 4.00 a.m. on 17-05-1997 because this contention is otherwise substantiated by the objections filed by the petitioner in response to the show cause notice. Another aspect of the case which needs a mention is that this Court, while entertaining this writ petition, directed deposit of Rs.20,000/- by the petitioner and on payment of such amount, the Court had directed the respondents to consider the application of the petitioner for special permit. This amount was also not paid. For these reasons, we do not find merit in the writ petition, which is accordingly dismissed. No costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

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Copy to:
1.Secretary, Regional Transport Authority,
Chittoor, Chittoor District.
2.Asst.Secretary, Regional Transport Authority.
Chittoor, Chittoor District.
3.2 CCs to G.P. for Transport.
4.2 CD copies.